

MILBERG WEISS BERSHAD  
& SCHULMAN LLP  
JEFF S. WESTERMAN (SBN94559)  
KAREN T. ROGERS (SBN 185465)  
One California Plaza  
300 S. Grand Avenue, Suite 3900  
Los Angeles, CA 90071  
Telephone: (213) 617-1200  
Facsimile: (213) 617-1975

MILBERG WEISS BERSHAD  
& SCHULMAN LLP  
RICHARD WEISS  
One Pennsylvania Plaza  
New York, NY 10119-0165  
Telephone: 212) 594-5300  
Facsimile: (212) 868-1229

Attorneys for Plaintiff

[Additional Counsel Appear on Signature Page]

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

CAROLYN MATARAZA, Individually and On Behalf of Itself and All Others Similarly Situated,	)	Case No. CV-05-4290-JSW
	)	
	)	<u>CLASS ACTION</u>
	)	
Plaintiff,	)	STIPULATION AND <del>[PROPOSED]</del> ORDER
	)	OF DISMISSAL
vs.	)	
	)	
PIXAR, STEVEN P. JOBS, EDWIN E. CATMULL and SIMON T. BAX,	)	
	)	
Defendants.	)	
	)	

1 The parties hereby stipulate as follows:

2 1. The parties to this action (the “Action”) enter into this stipulation of dismissal  
3 pursuant to Rule 41(a)(1)(ii) of the Federal Rules of Civil Procedure.

4 2. Plaintiff filed the Action on October 21, 2005. By Order dated September 12, 2006,  
5 the Court granted defendants’ motion to dismiss.

6 3. Plaintiff hereby dismisses the Action. The parties agree that there shall be no further  
7 proceedings relating to the filing or maintenance of this Action.

8 4. The parties agree that each side shall bear its own costs and attorney’s fees.

9 5. The parties represent that defendants have not made or promised any payment, direct  
10 or indirect, to the named plaintiff or his counsel in return for dismissal of the Action.

11 6. Neither this stipulation nor the proposed order of dismissal shall constitute or imply  
12 any admission or concession by any party regarding any claim raised by the Action.

13 7. A class certification motion has not been noticed or heard, and a class has not been  
14 certified.

15 8. Notice to the class of this pre-certification dismissal is not required, pursuant to the  
16 three-part framework of *Diaz v. Trust Territory of the Pacific Islands*, 876 F.2d 1401, 1408-11 (9th  
17 Cir. 1989).

18 (a) Notice is not necessary “as a deterrent to hypothetical abusive plaintiffs.” *Id.*  
19 at 1409. Plaintiff and his counsel represent that they did not append class allegations in order to  
20 obtain a favorable individual settlement. On the contrary, the plaintiff has not sought, nor have  
21 defendants agreed to, any individual settlement.

22 (b) Notice is not necessary to “protect[] the class from objectionable structural  
23 relief, trade-offs between compensatory and structural relief, or depletion of limited funds available  
24 to pay the class claims.” *Id.* (Citation omitted). No relief is being granted here that could affect the  
25 interests of putative class members.

26 (c) Notice is not necessary to “protect[] the class from prejudice it would  
27 otherwise suffer if class members have refrained from filing suit because of knowledge of the  
28 pending class action.” *Id.* (Citation omitted). No class has been certified and accordingly, no class

notice has been given to putative class members. In addition, defendant Pixar will include in Disney's next annual report on Form 10-K or quarterly report on Form 10-Q, whichever is earlier, a statement advising of the dismissal of this Action.

9. For the foregoing reasons, the parties respectfully request that the Court enter the accompanying Order of Dismissal.

DATED: October 16, 2006

MILBERG WEISS BERSHAD  
& SCHULMAN LLP  
JEFF S. WESTERMAN  
KAREN T. ROGERS

/s/ Jeff S. Westerman  
JEFF S. WESTERMAN

One California Plaza  
300 S. Grand Avenue, Suite 3900  
Los Angeles, CA 90071  
Telephone: (213) 617-1200  
Facsimile: (213) 617-1975

MILBERG WEISS BERSHAD  
& SCHULMAN LLP  
RICHARD WEISS  
One Pennsylvania Plaza  
New York, NY 10119-0165  
Telephone: (212) 594-5300  
Facsimile: (212) 868-1229

LAW OFFICES OF BRUCE G. MURPHY  
Bruce G. Murphy  
265 Llwyds Lane  
Vero Beach, FL 32963  
Telephone: (828) 737-0500

LAW OFFICES OF MICHAEL A. SWICK  
PLLC  
One William Street, Suite 1000  
New York, NY 10004  
Telephone: (212) 920-4310  
Facsimile: (212) 585-0799

Attorneys for Plaintiff

1 DATED: October 16, 2006

WILSON SONSINI GOODRICH & ROSATI  
Boris Feldman  
Douglas J. Clark  
Cheryl W. Fount

\_\_\_\_\_  
*/s/ Boris Feldman*

BORIS FELDMAN

650 Page Mill Road  
Palo Alto, CA 94304  
Telephone: (650) 493-9300  
Facsimile: (650) 565-5100

Attorneys for Defendants

\* \* \*

**ORDER**

Pursuant to Fed. R. Civ. P. 23(e) and 41(a)(1)(ii), the Court has reviewed this Stipulation of Dismissal and hereby approves the dismissal of this Action.

All parties shall bear their own costs, expenses, attorney's and other fees in connection with this Action.

DATED: October 20, 2006

  
\_\_\_\_\_  
THE HONORABLE JEFFREY S. WHITE  
UNITED STATES DISTRICT COURT JUDGE